

This Page Is Inserted by IFW Operations
and is not a part of the Official Record

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

**As rescanning documents *will not* correct images,
please do not report the images to the
Image Problem Mailbox.**

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITHERM FOOD SYSTEMS, INC., an
Illinois corporation; and JENNIE-O-FOODS,
INC., a Minnesota corporation,

Plaintiffs.

vs.

SWIFT-ECKRICH, INC. d/b/a ConAgra
Refrigerated Foods, a Delaware corporation,

Defendant.

Case No. CIV-01-347-C

DECLARATION OF DR. CHRISTOPHER P. SALM

I, Dr. Christopher P. Salm, declare as follows:

1. I am Vice President of Research and Development for defendant ConAgra Refrigerated Foods. The matters in this declaration are based upon my personal knowledge. If called as a witness, I could testify competently to these facts. This declaration is hereby submitted in lieu of an affidavit pursuant to 28 U.S.C. §1746.

2. I obtained a Bachelors of Science degree in Animal Science from the University of Wisconsin in Madison in 1975. I obtained a Master's degree and a Ph.D. in Animal Science from Purdue University in 1978 and 1981, respectively. I have worked in product development, process development and research and development in the processed food industry for over 20 years.

3. During the last 20 years, I have worked with different companies, including Red Arrow Products Company, that sell liquid smoke products to be applied to meat products for browning and/or smoking. Based on my educational experience and my experience in the processed food industry, I know that liquid smoke products are not browning liquid pyrolysis products if the products impart a smoke flavor but do not promote the browning of meats. For example, Red Arrow currently sells the following liquid smoke products which are

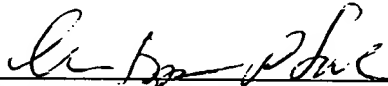
EXHIBIT A

PTO-003146

not browning liquid pyrolysis products: Aro-Smoke P-50, Aro-Smoke 8056, Aro-Smoke 8068, Charoil Hickory, Charoil Mesquite, Charoil B and Charoil Hickory Double Potency.

4. Therefore, it is my opinion that one cannot determine whether a liquid smoke product is a browning liquid pyrolysis product without knowing information relating to the properties of the product at issue (i.e. whether a smoke flavor is imparted, whether a browning of the meat is promoted, etc.).

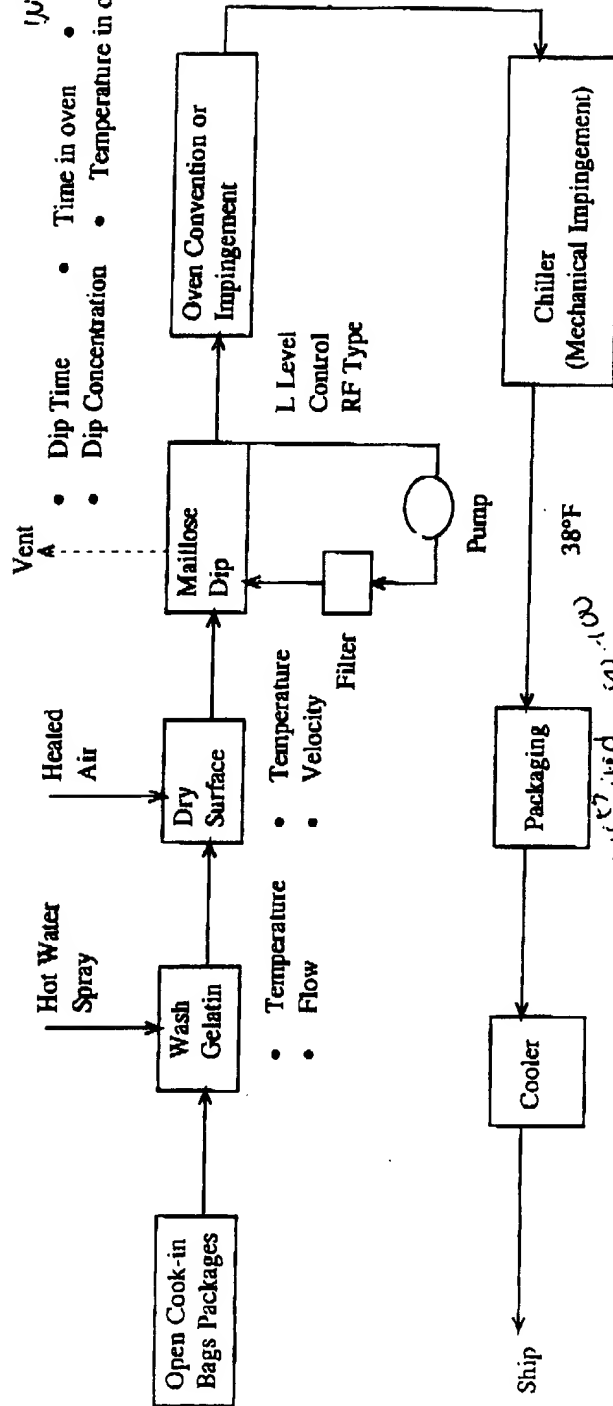
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on June 6, 2002, at Downers Grove, Illinois.



Christopher P. Salm, Ph.D.

- Able to achieve any desired color and flavor - Done
- Establish a desired color / flavor target
- Optimize the processes (in progress)

- Able to achieve any desired color and flavor - Done
- Establish a desired color / flavor target
- Optimize the processes (in progress)



- Conduct Shelf Life Study (in progress) 1 yr. 6 m. study
- Approve Labels - "Caramel Applied"; "Caramel Color"; (in progress)
- Change Graphics to "New Oven Baked" Focus? - This is an opportunity

23. Knowledge Transfer Issues

- CRPF07877

OVEN BAKED TURKEY
DECISION FLOW - PRODUCT ATTRIBUTES

Characteristics	Oil Browning			Non - Oil Browning				
	Descriptive Score	Score* 1-10	Weight %	Weighted Score	Descriptive Score	Score* 1-10	Weight %	Weighted Score
• Flavor	Not good. Degrades with time	3	25	75	Durable Flavor may change with time	7	25	175
• Flavor Perception		6	25	150		8	25	200
• Mouth Feel	Greasy, fishy taste particularly as time goes on	6	10	60	Clean, non greasy flavor	8	10	80
• Texture	Okay	8	5	40	Okay	8	5	40
• Appearance uniformity	Uniform	8	10	80	Uniform	7	10	70
• Baked Appearance (Golden Brown?)	More towards black hue	6	25	150	Golden Brown	8	25	200
OVERALL WEIGHTED PRODUCT ATTRIBUTES SCORE				550				765

* 1 ————— 10
Worst Performance 5 Best Performance

CONFIDENTIAL
Attorney Eyes Only

CRPF07878

OVEN BAKED TURKEY
DECISION FLOW - OPERATION CHARACTERISTICS

Characteristics	Oil Browning				Non - Oil Browning			
	Descriptive Score	Score* 1-10	Weight %	Weighted Score	Descriptive Score	Score* 1-10	Weight %	Weighted Score
• Operating Efficiencies	Involved operation oil frying, filters, oil quality control, oil temperature, FFA difficult to control and maintain	5	30	150	Relatively easy to operate no FFA problem, Maillose at constant concentration. Filter needed. Level control.	7	30	210
• Safety	Extra safety must be taken, fire hazard, high temperature, face shield	5	30	150	Closed system. No particular safety issue. Maillose handling.	6	30	180
• Environmental	Vent oil vapor. Dispose oil	6	10	60	Vent Maillose. Dispose Maillose	6	10	60
• Cleanability		5	15	45		6	15	90
• Maintenance		6	15	90		7	15	75
OVERALL WEIGHTED PRODUCT ATTRIBUTES SCORE				495				615
								765

* 1 ————— 10
Worst Performance 5 Best Performance

CONFIDENTIAL
Attorney Eyes Only

CRPF07879

OVEN BAKED TURKEY
DECISION FLOW - COST IMPLICATIONS

	<u>Oil Browning</u>	<u>Non Oil - Browning</u>
Capital Cost	\$0.8 - 0.9 mm (Estimated) will confirm	\$1.1 - 1.2 mm
Delivery	16 weeks	16 weeks
DSC	12.5¢/pound incremental basis 143% pump	4¢/pound incremental basis 138% pump

higher than

7. *refined oil
oil
oil*

CONFIDENTIAL
Attorney Eyes Only

CRPF07880

Date: December 12, 1997

To: K. Keenan F. Carroll A. Colglazier D. Billow T. Bentley
J. Cappozzo P. Singh J. Costelloe P.Y. Wang T. Nestor
CC: R. Scalise J. Stephens R. Goodman R. Bartenmeyer M. Heakin
Fr: S. Burns/S. Gershenson
Re: Turkey Breast Product Improvement Project - 12/11/97 Meeting Recap

Issue: Determine cost/timing/other factors related to switch to Longmont shape.
Status: Need update from F. Carroll.

Issue: Explore alts. to poultry netting/carmel color (w/out stripping from bag).
Status: Overall, determined to be a longer-term initiative. Curwood (Jonesboro/Longmont film supplier) has not tested concept. Cryovac (Honey Creek supplier) is approx. one year away from testing alternatives to both netting & carmel.

Issue: Investigate oil browning methodology.
Status: Will run two 10M lb. test batches of product: (1) 40% pump with no lactate/diacetate, and (2) 40% pump w/low levels of lactate/diacetate. The samples will be used to test the following oil browned processes with: (1) Jonesboro oil (soybean), (2) Longmont oil (soybean), and (3) preferred oil (determined w/ help of resource Jerry Sloan --could be soybean or cottonseed). Also, samples of oil will be tested throughout the day. Potentially, we can improve the quality of oil browned products by using a more hydrogenated oil, which provides better stability. The test products will be sensory tested initially and again 30-40 days later. A secondary test will be run with the goal of getting a lighter, more golden brown color of oil browning by adjusting the dextrose levels. Test samples expected to be ready by January 10th. Oil browning is an option that is feasible for 4th quarter implementation as equipment appears to be currently available; however, capacity issues need to be addressed.

Issue: Investigate Maillose alternative to browning.
Status: Primary concern with using Maillose process to impart color is shelf life. However, shelf life issues can be addressed by adding a post-pasteurization process. We would need sufficient lead time to build a post pasteurizing unit along with a chiller. Plan is to test samples with and without post pasteurization. Also, excess amount of gelatin on outside of product needs to be addressed. Samples are expected to be available January 10th.

Issue: Investigate laser option to browning.
Status: Product (with current pump levels) will be sent to outside supplier for testing. Feedback expected by January 10th.

The group agreed to convene for a brief status meeting during the week of January 5th. During the following week (week of January 12th), samples from the various tests noted above will be available for review.

CONFIDENTIAL
Attorney Eyes Only

CRPF07881

INTEROFFICE MEMORANDUM ARMOUR SWIFT ECKRICH

January 12, 1998

Cc: R. Scalise	K. Keenan	R. Bartemeyer	J. Stephens
F. Carroll	A. Colglazier	D. Billow	J. Cappozzo
P. Singh	P. Wang	T. Nestor	D. Sommerlo
T. Brubaker-Jonesboro			

To: S. Burns

Subject: Status Report-Turkey Browning Project

Activities In Progress**1. Longmont Deli Shape**

Frank Carroll has reviewed the costs and timing associated with the changeover in Jonesboro to the Longmont shape. He estimates that it will cost approximately \$60,000 to convert all the die pockets in Jonesboro to the Longmont shape and approximately 12 weeks lead time.

Suggested Next Steps

An R&E must be generated by Operations with Management's approval as soon as possible. The consumer tests indicated that this shape was preferred by consumers.

2. Oil Investigation

Discussions have taken place with research personnel from Lamb Weston, Hunt Wesson and the Institute of Shortening and Edible Oils regarding the frying oil and processing times/temperatures we are currently using to manufacture processed turkey breasts. Representatives of all companies stated, in their opinion, we are using the wrong type of oil for frying turkey breasts. We brown in nonhydrogenated soybean oil, which is prone to having off notes of "fishy" flavors. They suggest that we use either corn oil, cottonseed oil, hydrogenated soybean oil or low linolenic content canola oil.

Suggested Next Steps

I suggest that tests be conducted on corn oil, cottonseed oil and canola oil in to determine the preferred oil. In my opinion, hydrogenated soybean oil should be given lowest consideration because of the potential consumer negative feedback from the hydrogenation process. These tests will be conducted in by January 26.

CONFIDENTIAL
Attorney Eyes Only

CRPF07882

PTO-003077

Anita is conducting a through investigation of the browning practices of Longmont and Jonesboro (Kansas City as well). This includes frying times, temperatures and handling practices. This includes tests on the quality of oil, storage conditions and oil changing frequency. This information will help us understand the discrepancies between plant practices. This information will be used to standardize procedures.

3. Alternative Oil Brown Color

In our last project review session, Deb Blouw suggested that we may not be optimizing consumer visual acceptance by browning in the usual manner. Even if we improve our browning practices, Deb felt we would be offering consumers the same browned appearance we currently offer. I agreed to attempt to reformulate our current product by adjusting the dextrose content to achieve a more natural, golden product when browned (similar to natural oven roasted). Tests were conducted in the pilot plant and this product were browned in Longmont this week. In addition, tests have been conducted in the pilot plant utilizing enriched turkey broth and mild, sweet onion to enhance natural roast turkey notes.

Suggested Next Steps

Samples of alternate browned turkey breasts will be evaluated this week along with the enriched flavored browned turkeys. Upon further direction from Management, we will accelerate development of the best of these flavor/appearance variables. It is estimated that we will need to pump the turkey breasts 38% to minimize the cost increase through browning. Production size batches of the optimized formula, if desired, could be produced by February 10th.

4. Maillose Browned Product

Tests are being conducted in the pilot plant on maillose treated turkey breasts. Jim Costelloe's first priority has been to develop a consistent golden brown color. Now that it appears he has the process perfected, he will put up product for shelf life purposes. We anticipate that shelf life may be a problem, so product will be tested with and without post pasteurization.

Suggested Next Steps

Maillose browned product will be prepared for shelf life purposes during the week of January 19th. Product will be available for Management's review, on a periodic basis in early February.

5. Laser Browned Product

We have contacted Synrad Laser Company regarding the browning of turkey breasts. Syrad is conducting extensive tests on laser treating Butterball turkey breasts.

CONFIDENTIAL
Attorney Eyes Only

CRPF07883

Suggested Next Steps

Review the samples Syrad will send us in mid to late January and update the group.

A review meeting has tentatively been scheduled for Monday, January 19 at 3:30 p.m. in the consumer test kitchen.



Stan Gershenson

CONFIDENTIAL
Attorney Eyes Only

CRPF07884

PTO-003079

ASE

DELI/FOODSERVICE

C O M P A N Y

DATE: January 29, 1998

TO: Rod Bartemeyer Maureen Heeakin
Deb Billow Kevin Keenan
Frank Carroll Rich Scalise
Stan Gershenson John Stephens
Rick Goodman Beth Bernardi

FROM: Sue Burns *MB*

cc: Tom Nestor

RE: Poultry Project - Jan. 27th Meeting Summary

Below are follow-up issues & next steps from the Poultry Business Review & product cutting meeting held earlier this week.

Butterball OR Shape

General agreement to change to Longmont shape

Next Steps

- Review Longmont sample vs. regular BB to ensure there's enough of a change on Fri., Jan. 30 (Stan)
- Complete R&E by mid week of Feb. 2 (Frank, Stan)

Butterball Color

Continue R&D effort to brown product with overall goal of optimizing appearance without changing flavor (if possible). Group agreed that product testing will be needed for taste (at a minimum).

Next Steps

- Produce samples using the following methods: (Stan)
 - Oil browning (ignore addition of whey to formulas)
 - Maillose
 - Laser
 - Impingement
- Develop weekly R&D timeline (Stan)
- Set up competitive cutting of browned products (Stan, Sue)

CONFIDENTIAL
Attorney Eyes Only

CRPF07885

PTO-003080

Butterball Entry Strategy

Entry strategy needs to be fully developed including consideration of key accounts that carry both OR & browned. Inventory phasing should also be addressed. Consider rebates as part of sell-in strategy to get trade to take on new skus. We agreed that distribution objectives should be regionalized.

Next Steps

- Develop detailed entry strategy including plans for specific key accounts – Food Lion & Publix (Kevin, Rod, Sue, Rick)
- Obtain BB BDI by mkt (whole bird, packaged) (Maureen, Sue)
- Establish regional distribution objectives (Kevin, Rod)

Butterball Segmentation

Agreed to segment BB into 4 varieties: OR, Honey/Smoked, Flavored, Chicken & support via packaging, sales materials, promotion, etc. Group agreed that focus will move away from fat free on label.

Next Steps

- Initiate package redesign; develop creative brief (Sue)
- Look at product differences (panel) low salt vs. BB OR (Stan)

Other

- Develop weekly timeline for project launch (Sue, Stan)
- Complete operational assessment of low to mid tier products/ consider sku rationalization (Kevin, Frank)
- Obtain understanding of # poultry slots per market
 - Deli scan analysis cost is \$1M (Sue, Maureen)
- Can we call OR "naturally" roasted? (Stan)
- Why is Winn Dixie up year-to-year? (Rod)
- Add FY96 to key account analysis (Beth)

CONFIDENTIAL
Attorney Eyes Only

CRPF07886

over profile

Maillose brown

oil burning. ~~FTW~~ - trying to get this in

su. duty next week - can

will give more stability

With seed
Crown

2. Curves

impingement →

Can't get color on skin less

Don't get over color.

Can Review Samples

Wasser - still ist -

next Thurs → panel of browned & lower profile
competitive panel of browned

Comparative panel of houses

Send stat memo of 5/10/68

memo
to
Shane

High 7/23/1818

• THATC \Rightarrow Taa has a glucose on conversion

marketing nationale → Tim Beasley

→ R + 2' mules

OR 112 } 26 APR 1964 MAX
OR 113 } 105 12
F449

OF-100
 ON 10/17 } 2640
 105 12
 F449

all known ~~in~~ the water samples no. 10123
Sheik hifi rue ad istue

Spent life now and then

Kippens \rightarrow Mäulerei (Redd maw)

የኢትዮጵያ

low-fests & we doing @ Unitarian

Thanksgiving dinner

pre-meeting w/
Deb & Kevin
on Wed.

1000

CONFIDENTIAL
Attorney Eyes Only

Attorney Eyes Only

CRPF07887

ASE

DELI/FOODSERVICE

C O M P A N Y

DATE: February 17, 1998
TO: S. Gershenson
cc: D. Billow
FROM: S. Burns *JB*
RE: Next Week's Poultry Panel

Stan, as we discussed yesterday, I will schedule a meeting for next Thursday, February 26 at the PDL to review the following:

- Browning turkey breast samples using the following methods:
 - Maillose
 - Oil browning (both cottonseed & corn oil – both w/out whey)
 - Impingement
- Lower profile breast from Longmont – to finalize approval for moving to the natural shape

It would be helpful to have on hand the additional products noted below:

- X* ■ Longmont 429
- X* ■ BB Browning (Jewel #30326) *Star*
- X* ■ BB OR #27312 *Star*
- Alpine Lace (caramel color) *Lucy or Ralph's*
- Boar's Head Ovengold - *Bill Devine*
- Dietz & Watson Premium (browned in canola oil) *Mike Morello*
- Sara Lee Premium *Sue*

Please be prepared to discuss the browning process you recommend along with a preliminary timeline.

Thanks for your continued support with this project!

CONFIDENTIAL
Attorney Eyes Only

CRPF07888

PTO-003083

ASE

DELI/FOODSERVICE

COMPANY

DATE: February 18, 1998

TO: Rod Bartemeyer
Deb Billow
Frank Carroll
Stan Gershenson
Rick Goodman

Maureen Heakin
Kevin Keenan
Rich Scallise
John Stephens

FROM: Sue Burns

cc: Tom Nestor

RE: Poultry Project - Next Cutting on Thurs., Feb. 26th

The next poultry cutting will be held from 3-4 on Thursday, Feb. 26 in the PDL kitchen. The objective of the meeting is two-fold:

- 1) Review lower profile Longmont product to finalize the decision to change the Butterball OR to a natural shape
- 2) Review various browned samples and make a decision on which methodology to pursue for the Butterball relaunch

■ Maillose

■ Oil browned (cottonseed & corn oil)

■ Impingement

→ Later see product in 2 weeks

① Knitherm - reviewed lighter

② Forpens - different browning

→ look for consistency

③ Steaming

→ look for consistency
100 pieces in plant
March 16th

+ costing

CONFIDENTIAL
Attorney Eyes Only

plus initiate
Sheik

like

CRPF07889

PTO-003084

next mty
Shape s/b down
Oil diff samples
- maillose - try cups again
to put up product
for sheik
Shipping product out for car
try that here

did
like
(Anita)

look in long trail
turn to Deb re. product

need to see
what it looks
like in the
kitchen
Stan to flu
to make sure
100 stay 2916

etc by
the end of
the week

suppliers

① Knitherm - reviewed lighter

② Forpens - different browning

→ look for consistency

③ Steaming

→ look for consistency
100 pieces in plant
March 16th

+ costing

CONFIDENTIAL
Attorney Eyes Only

plus initiate
Sheik

like

CRPF07889

PTO-003084

ASE

DELI/FOODSERVICE

COMPANY

Rich wants
 ① Cost
 ② Timing
 ③ how we would wrap up technology (up to engineers)

DATE: March 3, 1998
 TO: Rod Bartemeyer
 Deb Billow
 Frank Carroll
 Stan Gershenson
 Rick Goodman
 Anita Colglazier
 FROM: Sue Burns
 cc: Tom Nestor

Maureen Heakin
 Kevin Keenan
 Rich Scallise
 John Stephens
 Chris Salm
 P.E. Wang

RE: Poultry Project - Recap of Cutting Held Thurs., Feb. 26th

Below is a brief recap of the browned breast cutting held last week along with timing & next steps.

- Reviewed lower profile Longmont product and finalized the decision to change the Butterball OR to a natural shape. R&E in progress and expected to be complete by the end of this week.
- Reviewed various browned samples including oil browned & maillose.
 - Oil browned - R&D will continue to test/optimize oil browning (cottonseed & corn oil) as a product improvement project for existing products (& as a fall-back position for maillose if necessary)
 - Maillose - Reviewed the color & flavor of various samples. The group agreed to target a "darker" browned color. Testing at 3 suppliers will continue (Unitherm, Koppens, Stein) & samples are expected to be ready for review by Thursday, March 19. Preliminary costing will also be available at the next panel. R&D will initiate shelf life testing.
- Other issues that require follow-up by March 19th:
 - Provide list of product claims that can be made using maillose process; e.g. what do we need to do to call the product "baked", can we call OR "naturally" roasted? (Stan)
 - Develop detailed project launch timeline (Stan, Sue)
 - Design entry strategy including plans for specific key accounts (Kevin, Rod, Rick, Sue)

*Koppens showed this week
 Show a well for for*

As noted above, the next meeting/panel is expected to be Thurs., March 19th - details to follow shortly.

CONFIDENTIAL
 Attorney Eyes Only

CRPF07890

PTO-003085

MAILLOSE PROJECT UPDATE

5/4/98
meeting

Healthy child
formula
- we will test
- get 15 gms
- get formula

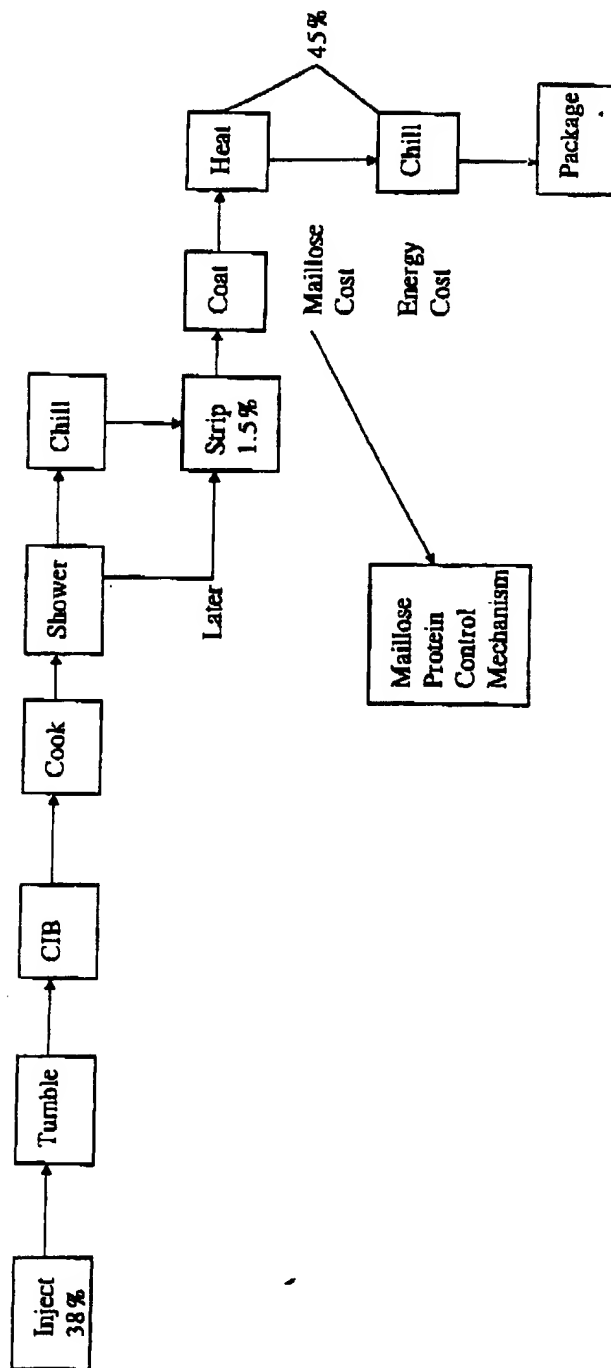
STEPS	RESPONSIBILITY	DATES
1. Define Process	Prem/Stan	
- Assume chill then strip		
- In plant testing for confirmation and uncover unknown		
2. Define pump / formula	Stan	
- 38 %		
- Lacolate / Diacolate for slat like		
- None - test 5/6 get sheet like going		
3. Define Jonesboro layout	Prem / Jim Sima	
4. Define supplier	Prem / Roy	
5. Define product cost	Prem request to Frank Carroll	
6. Develop CER	Jim Sima / Prem / Roy	
7. Shelf life - Micro / Texture / Flavor / Color	Stan	
8. Color Ring	Prem / Stan	
9. Maillose Safety guarantee (health hazard) - Red Arrow	Prem	
10. Installation timetable	Jim Sima	
11. Patent Process	Prem	

to get to bill
of prem
for leave
premise
build for
into for
premise
premise

"Ring" update. (boring)
Prem - 7 place place -> no ring -
run end of April
* This Friday - original product will be 60 days old
Review 60 day product

CONFIDENTIAL
Attorney Eyes Only

CRPF07891



CONFIDENTIAL
Attorney Eyes Only

CRPF07892

Longmont meat properly trimmed → *retry* } *timing*
 may be better than 987.
 (for free)

Poultry Relaunch
 Weekly Status Meeting
 May 8, 1998

Discussion Topics

■ Food Service Issues

- Healthy Choice - change from 100% fat free, packaging
- Butterball - no significant issues per Paul

■ Project Status/ Timeline

- Healthy Choice formula change → *need to run bags out → timing should be synchronized*
- Product costing
- Ring issue
- Shelf life
- Nutritionals

■ BB Chicken & HC Chicken - browning issues

*make samples next week 7 current formulations
 2 variations*
 maillox
 +
 oil brown

start shelf life

~~end of next u~~

~~end of week of~~ By the 2nd of May

CONFIDENTIAL
 Attorney Eyes Only

issue 2 both made in Jonesboro

If Maillox → need to ship to Longmont

If oil browned → can stay in Jonesboro

shelf life 6065

new 110

CRPF07893

Flu → ~~test~~ u w/ Tom Test

current making HC oil brown

ASE

DELI/FOODSERVICE

C O M P A N Y

DATE: May 11, 1998

TO: R. Bartemeyer, F. Carroll, A. Colglazier, T. Nestor, S. Gershenson,
L. Saguto, P. Singh

FROM: S. Burns *AS*

cc: D. Billow, R. Goodman, K. Keenan, P. Petrich, R. Scalise,
J. Stephens

RE: May 9th Poultry Project Meeting Recap

Below is a brief summary of issues discussed:

- *Project timeline*
 - See attached for R&D/ Operations timeline
 - Weekly timeline to be discussed at the next status meeting (5/15/98)
- *Impact of "browned" change on Food Service*
 - Butterball – no significant issues per Paul P.
 - Healthy Choice – Lori Saguto & Tom Nestor are exploring options and will update the group at the next meeting
- *Proposed Healthy Choice formula change (from carr. to starch)*
 - Stan is running samples, group will review & then sensory testing will be completed
- *Proposal to "brown" BB chicken & HC chicken*
 - Stan will have product available to review by May 22
 - Product will include both BB & HC chicken skus browned in 2 ways: oil brown & mallose
 - Shelf life testing will commence immediately after panel (currently 110 days, browned 60-65 days expected)
 - Both HC & BB chicken are currently made in Jonesboro; if oil browning is the methodology, product can stay in Jonesboro. If mallose- product will have to be shipped to Longmont.

The next project team meeting will be held at approx. 9:15 on Friday, May 16th - immediately after Rich's staff.

CONFIDENTIAL
Attorney Eyes Only

CRPF07894

PTO-003089

Activity Timetable-Maillose Turkey Project

<u>Activity</u>	<u>Responsibility</u>	<u>Timing</u>
1) Define Plant Location <i>longmont</i>	Scalise/Carroll	5/6
2) Meeting With Engineers	<i>by Jim</i> Cantu/Sima/Singh	5/8
3) Color Ring Tests-Koppens	Singh/Papinaho	5/11-5/26
4) Shelf Life Determination	Gershenson	In Progress-5/8(60 Days)
5) Define Process	Singh/Gershenson	5/28
6) Define Pump/Formula <i>W/out lactate/diacetate</i>	Gershenson <i>1st set of product cut 5/1</i>	8/12 <i>run w/out next week final findings 60 days out</i>
7) Determine Nutrition	Gershenson	5/30
8) Define Plant Layout	Singh/Sima	5/31
9) Define Supplier	Singh/Cantu/Singh	5/26
10) Define Product Cost	Carroll	5/31
11) Develop C.E.R.	Sima/Cantu/Singh	5/31
12) Safety Guarantee-Maillose	Singh	5/28
13) Installation Timetable	Singh	5/26-18 Weeks/4 Weeks
14) Patent Application	Singh	Done

*work next Tues
watch over 2
weeks*

*run w/out next week
final findings
60 days out*

*pic's signature
5/26*
5/26-18 Weeks/4 Weeks
delivery installation

*~ beg to
Mid
Oct.*

CRPF07895

CONFIDENTIAL
Attorney Eyes Only

PTO-003090

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

FILED

JUN 11 2002

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY _____ DEPUTY

Case No. CIV-01-347-C

FILED UNDER SEAL

UNITHERM FOOD SYSTEMS, INC., an
Illinois corporation; and JENNIE-O FOODS,
INC., a Minnesota corporation,

Plaintiffs,

v.

SWIFT-ECKRICH, INC. d/b/a ConAgra
Refrigerated Foods, a Delaware corporation,

Defendant.

**DEFENDANT'S RESPONSE TO PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT REGARDING PATENT
INVALIDITY AND UNENFORCEABILITY, AND DEFENDANT'S
ASSOCIATED MOTION TO STRIKE EXHIBITS TO PLAINTIFFS' MOTION**

ROBERT D. TOMLINSON, ESQ.
KEITH D. TRACY, ESQ.
McKINNEY & STRINGER, P.C.
101 North Robinson, Suite 1300
Oklahoma City, Oklahoma 73102-5504
Telephone: 405/239-6444
Fax: 405/239-7902

ROBERT A. SCHROEDER, ESQ.
HOWARD A. KROLL, ESQ.
CHRISTIE, PARKER & HALE, LLP
350 West Colorado Blvd., Suite 500
Post Office Box 7068
Pasadena, California 91109-7068
Phone: 626/795-9900
Fax: 626/577-8800

JOHN P. PASSARELLI, ESQ.
DAVID H. ROE, ESQ.
McGRATH, NORTH, MULLIN & KRATZ
222 So. Fifteenth Street, Ste. 1400
Omaha, Nebraska 68102
Phone: 405/236-8911
Fax: 405/236-0011

**CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO
INTERIM PROTECTIVE ORDER FILED HEREIN ON AUGUST 7, 2001
AND THE COURT'S ORDER OF OCTOBER 31 2001. THIS ENVELOPE IS
NOT TO BE OPENED NOR THE CONTENTS THEREOF DISPLAYED,
COPIED OR REVEALED, EXCEPT BY
COURT ORDER OR BY AGREEMENT OF THE PARTIES**

PTO-003091

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

Case No. CIV-01-347-C

UNITHERM FOOD SYSTEMS, INC., an Illinois corporation;
and JENNIE-O FOODS, INC., a Minnesota corporation,
Plaintiffs,

v.

SWIFT-ECKRICH, INC., d/b/a CONAGRA
REFRIGERATED FOODS, a Delaware corporation,
Defendant.

CONFIDENTIAL – FILED UNDER SEAL

**DEFENDANT'S RESPONSE TO PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT REGARDING PATENT
INVALIDITY AND UNENFORCEABILITY, AND DEFENDANT'S
ASSOCIATED MOTION TO STRIKE EXHIBITS TO PLAINTIFFS' MOTION**

ROBERT D. TOMLINSON, ESQ.
KEITH D. TRACY, ESQ.
McKINNEY & STRINGER, P.C.
101 North Robinson, Suite 1300
Oklahoma City, Oklahoma 73102-5504
Telephone: 405/239-6444
Fax: 405/239-7902

ROBERT A. SCHROEDER, ESQ.
HOWARD A. KROLL, ESQ.
CHRISTIE, PARKER & HALE, LLP
350 West Colorado Blvd., Suite 500
Post Office Box 7068
Pasadena, California 91109-7068
Phone: 626/795-9900
Fax: 626/577-8800

JOHN P. PASSARELLI, ESQ.
DAVID H. ROE, ESQ.
McGRATH, NORTH, MULLIN & KRATZ
222 So. Fifteenth Street, Ste. 1400
Omaha, Nebraska 68102
Phone: 405/236-8911
Fax: 405/236-0011

Attorneys for Defendant Swift-Eckrich

June 11, 2002

PTO-003092